

United States Government

**NATIONAL LABOR RELATIONS BOARD**

Region 6

1000 Liberty Avenue - Room 1501

Pittsburgh, PA 15222-4173

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**Region6@nrlb.gov**

July 13, 2005

Re: **LaurelWood Care Center**  
**Case 6-RD-1561**

Ms. Rilla M. Surap  
240 Adams Drive  
Salix, PA 15952

Dear Ms. Surap:

Your petition seeking an election among certain employees of LaurelWood Care Center has been carefully investigated and considered.

**Decision to Dismiss:** Based on that investigation, I have concluded that further proceedings are not warranted and I am dismissing your petition because you did not submit an adequate showing of interest in support of your petition during the open window period for the filing of the petition as explained below.

In February 2005, LaurelWood Care Center, the Employer in the above-captioned case; other Grane-managed facilities; and District 1199P, Service Employees International Union, AFL-CIO, CLC, the Intervenor in the above-captioned case, entered into an omnibus settlement of various unfair labor practice charges. The Summary of Terms of Settlement sets forth the parties' recognition that this office would dismiss the then-pending decertification petition at Case 6-RD-1535, filed by you, upon ratification of the collective-bargaining agreement between the Employer and the Intervenor.<sup>1</sup> The Intervenor further agreed that it would not raise the contract as a bar to any decertification petition filed during the period from May 2, 2005, to May 31, 2005.

On May 20, 2005, you filed the instant decertification petition and the Region served copies of it, by letter, on the Employer and the Intervenor. Although the letter to the Employer requested a list of employees in the petitioned-for unit, such a list was not immediately provided.

In connection with the investigation of a related unfair labor practice charge alleging supervisory taint of the showing of interest, the Region's request to the Employer for the list of employees was renewed and the Employer supplied the list on the morning of the June 6, 2005, hearing. That list contained 111 names and after a check of the showing of interest, you were advised that you may not have had an adequate showing and you were given an additional 48 hours to submit an additional showing. All parties were aware of this issue at the hearing and were asked to brief the question of whether any additional showing should be accepted outside the

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<sup>1</sup> The contract became effective upon its ratification, presumably in March 2005, and remains effective until March 31, 2008.

May open window period for the filing of a petition. After further review of the list and consultation with the Employer, the list was modified and corrected to include 118 names.

On June 8, you submitted an additional showing of interest but the Intervenor also submitted a petition signed by a number of employees revoking their earlier support reflected in your original showing of interest.

I have now determined that there were 118 employees in the unit involved herein for the payroll period ending immediately before the filing of the petition, and that the petition lacked an adequate showing of interest at the time it was filed or at any time during the agreed upon window period.<sup>2</sup> I have further determined that the omnibus settlement entered into by the Employer and the Intervenor involved a limited waiver of the contract bar rules. Finally, I find that the Intervenor's agreement "not to raise the contract as a bar to any decertification petition filed at LaurelWood during the period May 2, 2005, to May 31, 2005" cannot be construed as an agreement to allow any additional period of time to provide the requisite showing of interest.

Section 101.17 of the Board's Rules and Regulations and Statements of Procedure provides that the petitioner must supply the showing of interest within 48 hours of the filing of the petition, but in no event later than the last day on which the petition might timely be filed. As the Board noted in Excel Corp., 313 NLRB 588 (1993), a case in which the petitioner was not advised of the showing of interest deficiency until after the close of the window period, the petitioner bears the burden of establishing an adequate showing of interest. The Board further stated in that case that its prior decision permitting consideration of signatures submitted after the expiration of the window period did not adequately protect the established bargaining relationship between the employer and the union and marked an ill-advised departure from both Board precedent and the Board's published Rules.

Accordingly, I have determined that no additional time can be allowed to supplement the showing of interest, and that based on the showing of interest submitted during the agreed upon window period, the petition was not adequately supported. Accordingly, the petition must be dismissed.

***Your Right to Obtain a Review of Dismissal Action:*** Pursuant to the National Labor Relations Board Rules and Regulations, Series 8, as amended, any party may obtain a review of this action by filing a request for review with the Executive Secretary of the National Labor Relations Board at 1099 – 14<sup>th</sup> Street, NW, Washington, DC 20570-0001. A request for review may not be filed by facsimile. You may, however, file a request for review electronically via the Internet in accordance with instructions previously provided to the parties. Those instructions may also be found at the Agency's Internet website under "E-Gov". If you file a request for review, you must also send a copy to the other parties to this proceeding and to me in the same or faster manner as that used to serve the Board. Also, please note the following:

***Request for Review Due date:*** The request for review must be received by the Executive Secretary of the Board in Washington, DC by the close of business at **5:00 p.m. EST (EDT)** on **July 22, 2005**. However, if you mail the request for review, it will be considered timely if it is postmarked no later than one day before the due date.

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<sup>2</sup> I have not considered any revocations of support for the decertification petition. See Master-Craft Corporation, 92 NLRB 524 (1950); General Dynamics Corporation, 175 NLRB 1035 (1969).

**Extension of Time to File Request for Review:** Upon good cause shown, however, the Board may grant special permission for a longer period within which to file a request for review. Any request for an extension of time may be filed in writing, by facsimile or electronically via the Internet, but must be received in Washington, DC no later than the request for review due date indicated above. A copy must be sent to each of the parties to this proceeding and to me in the same or faster manner as that used to serve the Board.

**Request for Review Contents:** The request for review must contain a complete statement setting forth the facts and the reasons that support your request for review of the decision to dismiss the petition. The request for review and any request for extension of time must include a statement as to the manner of service on the other parties to this proceeding and on me.

Very truly yours,

Michael C. Joyce  
Acting Regional Director

cc:

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